

1 Payam Shahian (State Bar No. 228406)
2 STRATEGIC LEGAL PRACTICES, APC
3 e-mail: pshahian@slpattorney.com
4 1875 Century Park East., Suite 700
5 Los Angeles, CA 90067
6 Telephone: (310) 277-1040
7 Facsimile: (310) 943-3838

8 Robert L. Starr (State Bar No. 183052)
9 THE LAW OFFICE OF ROBERT L. STARR
10 e-mail: starresq@hotmail.com
11 23277 Ventura Boulevard
12 Woodland Hills, California, 91364-1002
13 Telephone: (818) 225-9040
14 Facsimile: (818) 225-9042

15 Dara Tabesh (State Bar No. 230434)
16 e-mail: DTabesh@hotmail.com
17 201 Spear St. Ste. 1100
18 San Francisco, CA 94105
19 Telephone: (415) 595-9208
20 Facsimile: (310) 693-9083

21 Attorneys for Plaintiff Rodolfo F. Mendoza

22 UNITED STATES DISTRICT COURT

23 CENTRAL DISTRICT OF CALIFORNIA—WESTERN DIVISION

24 RODOLFO FIDEL MENDOZA,
25 individually, and on behalf of a class of
26 similarly situated individuals,

27 Plaintiff,

28 v.

GENERAL MOTORS, LLC,

Defendant.

CASE NO. CV 10-2683 AHM (VBK)

Hon. A. Howard Matz

**PLAINTIFF'S OBJECTION TO
EXHIBITS B AND C TO
DEFENDANT'S REQUEST FOR
JUDICIAL NOTICE IN SUPPORT
OF MOTION TO DISMISS**

Hearing Date: October 11, 2010

Time: 10:00 a.m.

Courtroom: 14

I. INTRODUCTION

In support of its Motion to Dismiss for Lack of Subject Matter Jurisdiction [F.R.Civ.P. 12(b)(1)], or, Alternatively to Transfer to the Southern District of New York for Referral to the Bankruptcy Court [28 U.S.C. § 1412] (“Defendant’s Motion”), Defendant General Motors, LLC has requested that the Court take judicial notice of (1) a letter dated April 23, 2010 to Robert L. Starr, Plaintiff’s counsel, from Lawrence S. Buonomo, General Motors Company Legal Staff (attached as Exhibit B to its Request for Judicial Notice in Support of Defendant’s Motion [“Request for Judicial Notice”]) and (2) a letter dated May 27, 2010 from Robert L. Starr to Lawrence Buonomo (attached as Exhibit B to its Request for Judicial Notice) (collectively, the “Exhibits”).

Neither of these two Exhibits contains adjudicative facts that are susceptible of judicial notice pursuant to Rule 201 of the Federal Rules of Evidence

Accordingly, Plaintiff respectfully requests that the Exhibits be disregarded.

II. ARGUMENT

Rule 201(b) of the Federal Rules of Evidence specifies the kinds of facts that may be judicially noticed:

A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned. Fed. R. Evid. § 201(b); *and see Wietschner v. Monterey Pasta Co.*, 294 F. Supp. 2d 1102, 1109 (N.D. Cal. 2003).

As a preliminary matter, purported correspondence between the parties in connection with the litigation are not properly the subject of judicial notice; nowhere has Defendant authenticated either of the two Exhibits.

1 Moreover, even if they had been authenticated, the Exhibits contain not
2 only disputed fact, but address legal issues as well that are not amenable to
3 judicial notice.

4 **III. CONCLUSION**

5 For the foregoing reasons, Plaintiff respectfully requests that Exhibits B
6 and C to Defendant's Request for Judicial Notice be stricken.

7
8
9 Dated: September 27, 2010

Respectfully submitted,

10 **THE LAW OFFICE OF ROBERT L. STARR**

11
12 By: /s/

13 Robert L. Starr
14 Attorneys for Plaintiff
15
16
17
18
19
20
21
22
23
24
25
26
27
28